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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/922,175
Filing Date: August 01, 2001
Appellant(s): KRACHT, JAMES E.

Mr. Bruce E, Hayden
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/19/2008 appealing from the Office action mailed 05/01/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

Claims 1-5, 13-16, 19-22 and 25-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Fee et al. (hereinafter Fee) (US 6, 415, 314 B1).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 6, 415, 314 Fee et al. 07-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

1. Claims 1-35 are subject to examination. Claim 12 has been cancelled and claims 6-11, 17, 18, 23, 24 and 30-35 have been restricted.

First of all, Examiner would like to apologize to the Applicant as well as the Applicant's representative for the inconvenience that might have caused because of the typographical error concerning the reference Fee's identification.

Response to Arguments

2. Applicant's arguments filed 02/13/2006 have been fully considered but they are not persuasive for the following reasons:

Applicant's argument:

"Fee, however, fails to teach or disclose the claimed limitation of "requesting a discovery protocol data package from the SSP". Examiner has cited Fee at col. 8, lines 47-55 as disclosing this limitation."

"The examiner cannot say that the DCA of Fee not only is the SSP of the present application AND ALSO requests the discovery protocol data package from said SSP, as such a reading means that the DCA in Fee is requesting a discovery protocol data package FROM ITSELF."

"Because Fee does not teach, suggest, nor otherwise disclose requesting a discovery data protocol package, Applicant also respectfully submits that Fee fails to teach, suggest, or otherwise disclose the claimed limitation of if said discovery protocol data package corresponds to said at least one internal occupant, then discovering occupant information corresponding to said at least one internal occupant."

Examiner's response:

Examiner would like to present the teachings of Fee by identifying the **facts about DCA** as being the SSP of the claim 1.

At col. 5, line 31-67 Fee teaches "The apparatus of the present invention, hereinafter referred to as the "Distributed Chassis Agent" (DCA), builds upon this model using the SNMP process in each module but only requiring a single IP and MAC address for the entire chassis. Also the DCA allows MIBs to be distributed across all modules in the chassis and accessible by each module's SNMP process. This allows the chassis to be viewed as a single system for management purposes rather than a collection of systems. The chassis and all it contains can be managed via a single agent who's work load is distributed across all the modules in the chassis. The construction of the DCA is broken down into the following parts:

1. Intermodule Communications
2. Discovery
3. Chassis Election
4. Chassis Agent Access
5. MIB distribution.

A major component of the DCA is some form of intermodule communication. While the DCA appears as a single entity to the outside world, internal to the chassis it is a collection of programs running on a collection of modules. In order for the DCA to appear as a single agent the individual modules must be able to communicate with one another. In order for this communication to take place a common bus or network must be available to all the modules. In the present implementation a common communication protocol must be used by all the modules.

Intermodule communications are accomplished in the present implementation via a system management bus (SMB). As shown in FIG. 3, the SMB 30 is composed of two LANs--SMB10 (based on ETHERNET), and SMB1 (based on LOCALTALK). The SMB is a means of communication between networking modules 32-36, and also provides an "out-of-band" link to NMSs (Network Management Stations) and file servers.

Also, Fee teaches, the function of “Chassis Agent Access” that is part of DCA, at col. 8, line 8-37, “The "chassis agent" is the software that allows the networking chassis to be managed as a single system. It is accessed via the network address known as the "chassis address." As communications with the chassis are performed using multiaccess networks like Ethernet, the chassis must also have a data-link address (or "MAC address"). The chassis address is a combination of its IP network and MAC address, and is referred to as the chassis IP/MAC address. The module acting as the DCA listens for packets having the chassis IP/MAC address.

The software may run on one or more modules within the chassis, but is always accessed via the same chassis address. The software is not dependent on any one module to perform its function. Each module may also have its own network address known as an "IP address." Each module must have a data link address known as a "MAC address." The chassis agent, regardless of where (on which module) it resides, always uses the same chassis IP/MAC address.

Packets destined for the Distributed Chassis Agent DCA (i.e., packets using the chassis IP/MAC address as the destination address) may arrive at the chassis via any one (or more) of its front panel ports (see ports 25, 27, 29 in FIG. 2), or in the case of the present implementation, it may also arrive via the SMB10, as the SMB10 is externalized. The packet is terminated (from the network point of view) at the entry point to the chassis. The module terminating the packet has two choices after it has terminated a packet destined to the DCA:

a) It may service the packet itself (i.e. act as the DCA) or b) It may forward the packet to another module for service.

Thus, Fee teaches “requesting a discovery protocol data package from the SSP”., and as claim recites “ In communication system apparatus with an Ethernet backplane and at least one internal occupant, a method for identifying internal occupants, Fee’s DCA performs the method in which it verifies that a system switch processor has been assigned an IP address and requests a discovery protocol data package from said SSP; and determines whether said discovery protocol data package corresponds to said at least one internal occupant; and if said discovery protocol data

package corresponds to said at least one internal occupant, then discovering occupant information corresponding to said at least one internal occupant.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 13-16, 19-22 and 25-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Fee et al. (hereinafter Fee)(US 6, 415, 314 B1).

Referring to claim 1,

Fee teaches in a communications system apparatus with an Ethernet backplane (col. 5, lines 60-65) and at least one internal occupant (col. 4, lines 51-61), a method for identifying internal occupants comprising:

verifying that a system switch processor ("SSP") (col. 8, line 33-38, "DCA") has been assigned an IP address (col. 6, line 21-52);

requesting a discovery protocol data package from said SSP (col. 8, lines 47-55);

determining whether said discovery protocol data package corresponds to said at least one internal occupant (col. 7, line 1-5); and if said discovery protocol data

package corresponds to said at least one internal occupant, then discovering occupant information corresponding to said at least one internal occupant. (col. 7, line 36-42).

Referring to claim 2,

Fee teaches the method of claim 1, including the additional act of determining whether said at least one internal occupant is the last internal occupant in said apparatus. (col. 7, line 13-14, col. 6, line 54-64).

Referring to claim 3,

Fee teaches the method of claim 1 further including after said query of determining whether said discovery protocol data package corresponds to said at least one internal occupant, the additional act of determining whether said at least one internal occupant has a valid IP address, if the discovery protocol data package corresponds to said at least one internal occupant. (col. 6, line 21-25, 60-67).

Referring to claim 4,

Fee teaches the method of claim 1 including the additional act of populating a data table with said at least one internal occupant's information. (col. 7, line 9-22).

Referring to claim 5,

Fee teaches the method of claim 1 wherein the act of discovering occupant information corresponding to said at least one internal occupant further comprises:

determining whether said at least one internal occupant is a multiservice route processor; discovering multiservice route processor information from said at least one internal occupant if said at least one internal occupant is a multiservice route processor;

determining whether said at least one internal occupant is a system processing engine; discovering system processing engine information from said at least one internal occupant. if said al least one internal occupant is a system processing engine; and indicating an error for said at least one internal occupant if said at least one internal occupant is not a system processing engine. (Fig. 1, element 14, col. 4, line 51-56, col. 5, line 10-23, col. 7, line 1-48).

Referring to claim 13,

Claim 13 is a claim to a communications system apparatus that carries out the method of claim 1. Therefore claim 13 is rejected for the reasons set forth for claim 1.

Referring to claim 14,

Claim 14 is a claim to a communications system apparatus that carries out the method of claim 2. Therefore claim 14 is rejected for the reasons set forth for claim 2.

Referring to claim 15,

Claim 15 is a claim to a communications system apparatus that carries out the method of claim 3. Therefore claim 15 is rejected for the reasons set forth for claim 3.

Referring to claim 16,

Claim 16 is a claim to a communications system apparatus that carries out the method of claim 4. Therefore claim 16 is rejected for the reasons set forth for claim 4.

Referring to claim 19,

Claim 19 is a claim to an apparatus for identifying internal occupants of a communication system in accordance with the method of claim 1. Therefore claim 19 is rejected for the reasons set forth for claim 1.

Referring to claim 20,

Claim 20 is a claim to an apparatus for identifying internal occupants of a communication system in accordance with the method of claim 2. Therefore claim 20 is rejected for the reasons set forth for claim 2.

Referring to claim 21,

Claim 21 is a claim to an apparatus for identifying internal occupants of a communication system in accordance with the method of claim 3. Therefore claim 21 is rejected for the reasons set forth for claim 3.

Referring to claim 22,

Claim 22 is a claim to an apparatus for identifying internal occupants of a communication system in accordance with the method of claim 4. Therefore claim 22 is rejected for the reasons set forth for claim 4.

Referring to claim 25,

Claim 25 is a claim to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform the method of claim 1. Therefore claim 25 is rejected for the reasons set forth for claim 1.

Referring to claim 26,

Claim 26 is a claim to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform the method of claim 2. Therefore claim 26 is rejected for the reasons set forth for claim 2.

Referring to claim 27,

Claim 27 is a claim to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform the method of claim 3. Therefore claim 27 is rejected for the reasons set forth for claim 3.

Referring to claim 28,

Claim 28 is a claim to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform the method of claim 4. Therefore claim 28 is rejected for the reasons set forth for claim 4.

Referring to claim 29,

Claim 29 is a claim to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform the method of claim 5. Therefore claim 29 is rejected for the reasons set forth for claim 5.

Conclusion

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

(10) Response to Argument

Appellant's argument:

"First, Fee does not show "verifying that a system switch processor ("SSP") has been assigned an IP address". (page 5 of the Appeal Brief)

"Fee further fails to teach or disclose the claimed limitation of "requesting a discovery protocol data package from said SSP." (page 6 of the Appeal Brief)

"Furthermore, Fee at col. 8 lines 47-55 does not describe requesting a discovery protocol data package, it merely says that the DCA uses MIBs to gather information about the chassis. If the Examiner wants to read in protocol data into this portion of Fee, or any other, and maintain a rejection based on *"information about the chassis"* necessarily means a protocol data package, Applicant respectfully requests evidence supporting such an assertion." (pages 6 and 7 of the Appeal Brief)

"Because Fee does not teach, suggest, nor otherwise disclose requesting a discovery data protocol package, Applicant also respectfully submits that Fee fails to teach, suggest, or otherwise disclose the claimed limitation of *"if said discovery protocol data package corresponds to said at least one internal occupant, then discovering occupant information corresponding to said at least one internal occupant".* (page 7 of the Appeal Brief)

"Furthermore, the DCA is not an SSP. The one is a *distributed chassis agent* while the other is a *system switch processor.* There is no reason to believe, and substantial reasons to disbelieve, that they are equivalent, either physically, or functionally. Further, the DCA does not check to see if the SSP has an IP address

assigned since Fee nodes only appear to the other nodes after they have assigned themselves IP addresses. Plus, the DCA being a distributed agent, does not have a single IP address, but rather each node belonging to the DCA has an IP address." (page 8 of the Appeal Brief)

"The remaining independent claims have similar limitations to independent claim 1, and should be treated similarly. Also, all the dependent claims are dependent upon claims that have these limitations." (page 8 of the Appeal Brief)

Examiner's response:

Examiner respectfully disagrees with the Appellant, as the Appellant **elides** the teachings of Fee, and **totally ignores the elided teaching's relevancy** to the claim limitations **by the virtue of misinterpretation**, while the Examiner has addressed, linked and read the claim limitations on the teachings of Fee based on the intrinsic evidence provided in the Appellant's specification. Therefore, examiner would like to point them out as to how Fee teaches the claim 1 as stated below.

Also, since the Appellant has admitted that "the remaining independent claims have similar limitations to independent claim 1, and should be treated similarly," the following Examiner's response to the arguments is applicable to the remaining independent claims as well.

A. First of all, let us keep in mind the following meaning of the "a discovery protocol data package" derived from the discernment of the claim itself. As claim 1 recites:

requesting a discovery protocol data package from said SSP;

determining whether said discovery protocol data package corresponds to said at least one internal occupant; and

if said discovery protocol data package corresponds to said at least one internal occupant, then discovering occupant information corresponding to said at least one internal occupant.

These claim limitations clearly recite that "if said discovery protocol data package corresponds to said at least one internal occupant" based on the "determining whether said discovery protocol data package corresponds to said at least one internal occupant.", then "requesting a discovery protocol data package from said SSP" is nothing but, requesting the SSP for "discovering occupant information corresponding to said at least one internal occupant."

And "discovering occupant information corresponding to said at least one internal occupant", is nothing but, "identifying the internal occupant", as the claim's preamble clearly defines as the ultimate goal of the method.

B. Now, let us start off with the preamble "In a communications system apparatus with an Ethernet backplane and at least one internal occupant, a method for identifying internal occupants comprising:" Fee teaches the following.

1. Fee's Fig. 1, element 16, "BACKPLANE" and element 10, "NETWORKING CHASSIS", element 14, "NETWORKING MODULES."

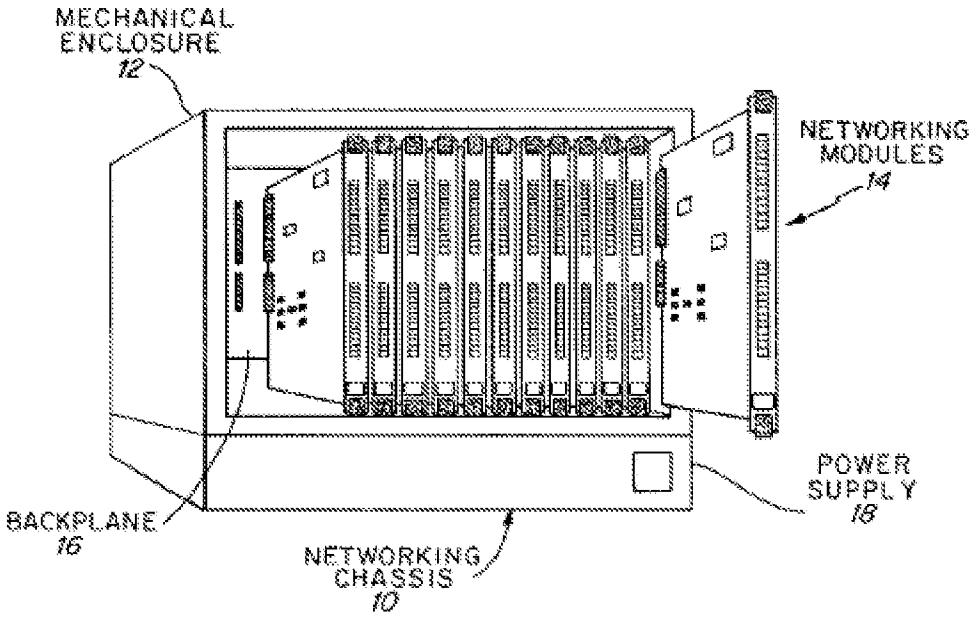

Fig. 1

2. Col. 4, line 50-56, "As shown in FIG. 1, a networking chassis 10 is a mechanical enclosure 12 that is used to house networking modules 14 such as repeater modules, bridge modules, terminal servers, file servers, etc. The chassis provides slots into which networking modules are inserted. Each module occupies one or more slots within the chassis.

The chassis in addition to being a mechanical enclosure provides a backplane 16 through which the modules inserted into the chassis are provided power from the chassis' power supply 18. The backplane is also used to provide networking connectivity between modules."

3. Col. 5, line 60-67, "As shown in FIG. 3, the SMB 30 is composed of two LANs--SMB10 (based on ETHERNET), and SMB1 (based on LOCALTALK). The SMB is a

means of communication between networking modules 32-36, and also provides an "out-of-band" link to NMSs (Network Management Stations) and file servers.

Thus, Fee's NETWORING CHASSIS with element 16, "BACKPLANE" and element 14, "NETWORKING MODULES" is A communication system with an Ethernet backplane and at least one internal occupant.

Note: Examiner derives this readings from the evidence provided on page 8, line 9 of the Appellant's specification and the Appellant's Fig. 2 , wherein elements 210 are internal occupants of the chassis 200 as described.

C. Now, let us go further on how Fee teaches, **"verifying that a system switch processor ("SSP") has been assigned an IP address.**

1. col. 5, line 50-58, "A major component of the DCA is some form of intermodule communication. While the DCA appears as a single entity to the outside world, internal to the chassis it is a collection of programs running on a collection of modules. In order for the DCA to appear as a single agent the individual modules must be able to communicate with one another. In order for this communication to take place a common bus or network must be available to all the modules."

2. col. 2, line 28-32, "A distributed chassis agent ("DCA") for a network is provided which enables the chassis to be managed as a single system, and wherein any module can perform the management function or it can be performed by multiple modules simultaneously."

3. col. 3, line 35-54, "As described hereinafter, once the modules have discovered one another, additional discovery may take place regarding the managed objects within the chassis's database and an election of modules is made to perform each specific management application.

At start-up or after a system change (module failure/removal, etc.), an election process is required to discover the best location(s) to run a management application(s). The decision on where to locate an application (i.e., which module) within the chassis may be based on the following: module's available resources, current applications, current profile (i.e., current processing load), module type, and slot number. Each application may have its own set of instructions for selecting the best location at which to be executed. The election instructions are performed by each module using the data found in its slot table. As each module has the same view of the system, each election process will arrive at the same result. The module selected will issue an unsolicited message with the new status of its application list."

4. col. 8, line 26-46, "Packets destined for the **Distributed Chassis Agent DCA (i.e., packets using the chassis IP/MAC address as the destination address)** may arrive at the chassis via any one (or more) of its front panel ports (see ports 25, 27, 29 in FIG. 2), or in the case of the present implementation, it may also arrive via the SMB10, as the SMB10 is externalized. The packet is terminated (from the network point of view) at the entry point to the chassis. The module terminating the packet has two choices after it has terminated a packet destined to the DCA:

a) It may service the packet itself (i.e. act as the DCA) or

b) It may forward the packet to another module for service.

The present implementation allows the SMB10 common network to be accessed from outside the chassis. The SMB10 may be used by a network management station (NMS) as a channel on which to manage the chassis. In the event that a NMS is located on the SMB10, **a single module is elected to act as the** DCA as all modules will receive packets destined to the DCA (i.e., the SMB10 is a multiaccess network).

Thus, Fee's communication system allows automatic assignment of IP addresses for all modules, and out of all modules, a module is elected to act as the "DCA". This elected "DCA" is "a system switch processor" for which the system verifies thorough the election process that the "DCA" is assigned the "the chassis IP/MAC address as the destination address." And thereby, Fee teaches that "verifying that a system switch processor ("SSP") has been assigned an IP address.

Note: Examiner derives this readings from the evidence provided on page 12, lines 3-6 of the Appellant's specification and the Appellant's Fig. 4 regarding the assignment of IP address. Also, Examiner derives this readings from the evidence provided on page 9, lines 12-13 of the Appellant's specification which says "system switch processor ("SSP") which is an Ethernet switch that passes data among all cards in the ICS chassis 200 and **to any other Ethernet switches connected to the**

system." (please note that the functionality of the SSP indicated in the bold letters is not claimed.)

D. With keeping in mind our discernment of the claim above, about "a discovery protocol data package", now let us look at how Fee teaches "requesting a discovery protocol data package from said SSP."

1. col. 8, line 39-46, "The present implementation allows the SMB10 common network to be accessed from outside the chassis. The SMB10 may be used by a network management station (NMS) as a channel on which to manage the chassis. In the event that a NMS is located on the SMB10, a single module is elected to act as the DCA as all modules will receive packets destined to the DCA (i.e., the SMB10 is a multiaccess network)."

2. col. 8, line 47-67. "5. MIB Distribution

The DCA uses MIBs to gather information about the chassis and to effect control on the chassis. A MIB is a collection of managed objects (MOs) organized into a naming (MIB) tree with each object having a unique name or identifier within the tree. The identifier is known as an OID or Object IDentifier. In order for the DCA to operate as a single entity across all the modules in the chassis, all the MIBs supported by the chassis must be distributed across all the modules.

Fee's Network Management Station (NMS) to manage the Chassis, requests an Management information from the DCA since the DCA uses MIBs to gather information

about the chassis **and to effect control on the chassis**. Thus, Fee teaches "requesting a discovery protocol data package from said SSP."

Note: Examiner derives this readings from the evidence provided on page 9, lines 12-13 of the Appellant's specification which says "system switch processor ("SSP") which is an Ethernet switch that passes data among all cards in the ICS chassis 200 and **to any other Ethernet switches connected to the system. (please note that the functionality of the SSP indicated in the bold letters is not claimed.)**

E. With, still, keeping in mind our discernment of the claim above, about "a discovery protocol data package", now, let us look at how Fee goes for teaching "determining whether said discovery protocol data package corresponds to said at least one internal occupant; and

if said discovery protocol data package corresponds to said at least one internal occupant, then discovering occupant information corresponding to said at least one internal occupant."

1. col. 8, line 47 through col. 9, line 25. "5. MIB Distribution

The DCA uses MIBs to gather information about the chassis and to effect control on the chassis. A MIB is a collection of managed objects (MOs) organized into a naming (MIB) tree with each object having a unique name or identifier within the tree. The identifier is known as an OID or Object IDentifier. In order for the DCA to operate as a single entity across all the modules in the chassis, all the MIBs supported by the chassis must be distributed across all the modules.

5.1 MIB Tree

The MIB tree is distributed across all modules within the chassis. The data contained within the distributed MIB is not fully distributed, rather each module maintains some of the data locally and fetches the rest from the remote modules. The data within a distributed MIB can be broken down into the following types:

Local Data

Remote Data

The MIB tree contains data that is maintained locally and pointers **to remote data (pointers to data on other modules).**

5.2 Distributed Managed Objects

To implement a distributed MIB, a remote registration process is needed. In this remote registration process, as illustrated in FIG. 6, every registering module or **entity 72, 74, 76, 78 in the chassis** registers under a particular branch (OID) on every other entity, as well as locally.

The same managed object MO (70) appears in each MIB object 73, 75, 77, 79, respectively, under the same branch. Remote or local access to the managed object is transparent to SNMP operation. A SET, GET or GETNEXT operation acts as if the remotely registered object were local.

To resolve a SNMP operation on the MIB object, the SNMP agent searches the MIB (via the MIB object) and finds the MO registered for the OID in the operation. Once the MO is found, the MO's member function corresponding to the particular operation (GET, GETNEXT, SET) is called. Before distributed MO's, this was a "local" procedure call, meaning that all the software code that ran as a result of this call was local to this processor (in local memory). Now with distributed MO's, this is not the case. If a SNMP operation resolves to an operation on a remote MO, a MORPC (Managed Object Remote Procedure Call) will be performed. FIGS. 7-8 depict this situation, where it is assumed that the MO has been registered successfully with all chassis entities."

PLEASE NOTE THAT FOR FEE, "REMOTE DATA " DOES NOT MEAN OUTSIDE OF THE CHASSIS BUT DATA ON THE MODULES OTHER THAN THE ONE ACTING AS A "DCA", LOCATED WITHIN THE CHASSIS. THUS, THE OTHER MODULES IS STILL AN INTERNAL OCCUPANT.

Thus, Fee teaches that the DCA, upon request from the Network Management Station (NMS), **uses MIBs to gather information about the chassis and to effect control on the chassis** and MIB tree is distributed across all modules within the chassis. Therefore, the module acting as a DCA fetches the "rest of the data from the remote modules."

And these "remote data" are clearly identified by the "pointers to data on other modules."

Thus, fee teaches "To resolve a SNMP operation on the MIB object, the SNMP agent searches the MIB (via the MIB object) and finds the MO registered for the OID in the operation.", thus the DCA determines whether the Data requested is remote by the pointers to data on other modules. Thus, Fee teaches "determining whether said discovery protocol data package corresponds to said at least one internal occupant, if said discovery protocol data package corresponds to said at least one internal occupant, then discovering occupant information corresponding to said at least one internal occupant."

Note: Examiner derives this readings from the evidence provided on page 11, lines 4 through page 12, line 2 of the Appellant's specification which indicated "SNMP".

Appellant's argument:

"The cited portion of Fee (Col. 6, Lines 21-23) reads "Each module automatically assigns its own internal IP address based on its own information about the chassis in which it is installed, the slot it occupies, and the number of hosts it supports". No mention of testing another module, nor of waiting until the IP address is assigned. Indeed, Fee teaches away from that, since it is based on a symmetric system where all nodes participate in the DCA and do not appear to the other nodes until they have assigned themselves an IP address. The present invention is asymmetric, as can be seen in FIG. 2, where the SSP 220 is typically distinct in both function and connectivity from the other nodes 210. *address*". In Fee, no node waits on any other node having an IP address assigned, since no node is visible until then. And no Fee node checks to see

if any other node has an IP address assigned for the same reason." (pages 4-5 of the Appeal Brief)

Examiner's response:

These arguments are irrelevant since the claim limitations do not include such a comprehensive explanation or description including the terms and conditions presented in the arguments.

Please note that **"It is the claims that define the claimed invention, and it is claims,** not specifications **that are anticipated or unpatentable.** *Constant v. Advanced Micro-Devices Inc.*, 7 USPQ2d 1064.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

(Note: the Examiner has made an earnest effort to properly address each and every Appellant's arguments of the appeal brief. In any event or reason if more explanation is needed, the Examiner will gladly provide as necessary).

Respectfully submitted,

/ASHOK PATEL/

Primary Examiner, Art Unit 2154

Conferees:

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2154

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151